

UNITED STATES DISTRICT COURT

for the
District of MarylandUnited States of America
v.

RAKESH KAUSHAL,

Case No.

19-1409TJS

Defendant

ARREST WARRANT



To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) RAKESH KAUSHAL

who is accused of an offense or violation based on the following document filed with the court:

- ☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☒ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

18 U.S.C. § 1349- Conspiracy to commit wire fraud

Date: April 17, 2019

Issuing officer's signature

City and state: Greenbelt, Maryland

Timothy J. Sullivan, US Magistrate Judge

Printed name and title

Return

This warrant was received on (date) 4/17/2019, and the person was arrested on (date) 4/17/2019
at (city and state) Dulles, VA

Date: 4/18/2019

Arresting officer's signature

ALEXANDER H KURGANSKY

Printed name and title

Alex # 19mj185

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

RAKESH KAUSHAL,

Defendants.

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13-1409TJS

CASE NO. _____

FILED UNDER SEAL

MOTION TO SEAL

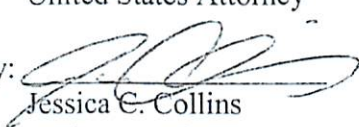
The United States of America, by its attorneys, Robert K. Hur, United States Attorney for the District of Maryland and Jessica C. Collins, Assistant United States Attorney for said District, hereby moves this Honorable Court for an order sealing the Criminal Complaint, Affidavit and Arrest Warrant in the above-captioned matter. Disclosure of the Criminal Complaint would enable the defendant to evade his appearance before the Court.

WHEREFORE, the government requests that this Motion, the Order and all other documents filed in this action be sealed until further order of the Court.


Respectfully submitted,

Robert K. Hur
United States Attorney

By:


Jessica C. Collins
Assistant United States Attorney

ORDERED as prayed, this 17th day of April, 2019.


Timothy J. Sullivan
United States Magistrate Judge

AO 91 (Rev. 11/11) Criminal Complaint

JJC/AMK(2018R00674)

UNITED STATES DISTRICT COURT

for the
District of Maryland

United States of America

v.

RAKESH KAUSHAL,

Case No.

19-1409TJS

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 2015 to January 2017 in the county of Prince George's in the
 District of Maryland , the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 1349

Conspiracy to commit wire fraud

This criminal complaint is based on these facts:

See Attached Affidavit

☐ Continued on the attached sheet.

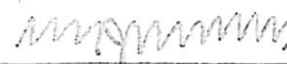
Complainant's signature

Special Agent Jason Bender

Printed name and title

Sworn to before me and signed in my presence.

Date:

April 17, 2019

Judge's signature

City and state: Greenbelt, Maryland

Timothy J. Sullivan, US Magistrate Judge

Printed name and title

AO 442 (Rev. 11/11) Arrest Warrant

2018R00674

UNITED STATES DISTRICT COURT

for the
District of MarylandUnited States of America
v.

RAKESH KAUSHAL,

Case No.

19-1409TJS

Defendant

ARREST WARRANT

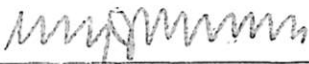
To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
 (name of person to be arrested) RAKESH KAUSHAL,
 who is accused of an offense or violation based on the following document filed with the court:

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This offense is briefly described as follows:

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Date: April 17, 2019

 Issuing officer's signature
City and state: Greenbelt, Maryland
Timothy J. Sullivan, US Magistrate Judge
 Printed name and title

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
 at (city and state) _____.

Date: _____

 Arresting officer's signature

 Printed name and title

19-1409TJS

AO 442 (Rev. 11/11) Arrest Warrant (Page 2)

**This second page contains personal identifiers provided for law-enforcement use only
and therefore should not be filed in court with the executed warrant unless under seal.**

(Not for Public Disclosure)

Name of defendant/offender: _____

Known aliases: _____

Last known residence: _____

Prior addresses to which defendant/offender may still have ties: _____

Last known employment: _____

Last known telephone numbers: _____

Place of birth: _____

Date of birth: _____

Social Security number: _____

Height: _____ Weight: _____

Sex: _____ Race: _____

Hair: _____ Eyes: _____

Scars, tattoos, other distinguishing marks: _____

History of violence, weapons, drug use: _____

Known family, friends, and other associates (name, relation, address, phone number): _____

FBI number: _____

Complete description of auto: _____

Investigative agency and address: _____

Name and telephone numbers (office and cell) of pretrial services or probation officer (if applicable): _____

Date of last contact with pretrial services or probation officer (if applicable): _____

JCC/GDB: USAO 2018R00674

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

RAKESH KAUSHAL,

Defendant

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CASE NO. 19-1409TJS

FILED UNDER SEAL

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

Your Affiant, Jason Bender, being first duly sworn, deposes and states as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), United States Department of Justice. I have been employed by the FBI since 2005 and am currently assigned to a financial crime squad. I have received instruction and training, along with investigative experience, in various types of fraud, to include, contract fraud, securities fraud, mortgage fraud, financial institution fraud, healthcare fraud, and money laundering. In the course of conducting or participating in criminal investigations, I have been involved in interviewing and debriefing witnesses and informants; conducting physical surveillance; analyzing bank records and other financial documents; analyzing telephone records; collecting and analyzing evidence; and preparing and executing search warrants and arrest warrants.
2. I have personally participated in this investigation and have witnessed many of the facts and circumstances described herein. I have also received information from other individuals who have knowledge of the circumstances relating to this investigation, to include other law enforcement personnel. The information set forth in this affidavit is based on my own observations and review of documents, or reliable information provided to me by others. I am

setting forth only those facts and circumstances necessary to establish probable cause for the issuance of the requested arrest warrant and complaint. Unless otherwise indicated, all written and oral statements referred to herein are set forth in substance and in part, rather than verbatim.

3. This affidavit is being submitted in support of a criminal complaint and arrest warrant for **RAKESH KAUSHAL** (“**KAUSHAL**”). Based on the facts set forth in this affidavit, I submit that there is probable cause to believe that **KAUSHAL** violated 18 U.S.C. § 1349 (conspiracy to commit wire fraud) from in and around August 2015 to in and around January 2017.

Statement of Probable Cause

Overview of the Investigation

4. I am conducting a criminal investigation into **KAUSHAL**, Co-Conspirator-1 (“**CC-1**”) and others as yet known and unknown (collectively “the Conspirators”). As further discussed below, from approximately August 2015 to January 2017, the Conspirators engaged in a scheme to defraud **KAUSHAL**’s employer, Victim 1, by receiving payments from Victim 1 to which they were not entitled. These payments were made by Victim 1 to **CC-1**’s companies, and **CC-1**, in turn, then funneled a portion of these payments back to **KAUSHAL**.

Relevant Individuals, Business Entities and Addresses

6. Victim 1 is headquartered in Beltsville, Maryland. Victim 1 provides construction and design services, primarily to federal government agencies.

7. Superior Construction Company Inc. (“**Superior**”) was a construction company, owned by **CC-1**, with an address of P.O. Box 219, Dickerson, Maryland. Maryland Department of Assessments and Taxation (“**MDAT**”) records reflect that **Superior** was forfeited in December 2017.

8. EDI Inc. T/A EDI Engineering & Construction Inc. ("EDI") was a construction company, owned by CC-1, with an address of P.O. Box 219, Dickerson, Maryland. MDAT records reflect that EDI was forfeited in November 2013.

9. Complete Commercial Services, Inc. ("CCS") was a construction company, owned by CC-1, with an address of 5000 Sunnyside Avenue, Suite 301, Beltsville, Maryland. MDAT records reflect that CCS was forfeited in December 2017.

10. **RAKESH KAUSHAL ("KAUSHAL")** is a Maryland resident. In August 2015, **KAUSHAL** was hired by Victim 1 as a Project Manager and later promoted to Project Executive. **KAUSHAL** is not currently an employee of Victim 1.

11. CC-1 is a Maryland resident. CC-1 was the owner and President of Superior, EDI, and CCS (collectively, "the CC-1 Companies").

12. Individual A is a Maryland resident. Individual A was the founder and is the sole owner of Victim 1.

13. Individual B began working for Victim 1 as a consultant in approximately October 2015 and later became Executive Vice President. Individual B is not currently an employee of Victim 1.

14. Individual C began working for Victim 1 as Controller in approximately May 2016. Individual C is not currently an employee of Victim 1.

The Fraud Scheme

15. The investigation has revealed evidence that the Conspirators engaged in a scheme to defraud **KAUSHAL**'s employer, Victim 1, by receiving payments from Victim 1 to which they were not entitled. These payments were made by Victim 1 to the CC-1 Companies which, in turn, would then funnel a portion of these payments back to **KAUSHAL**.

16. Victim 1 hired **KAUSHAL** in approximately August 2015. **KAUSHAL** managed construction projects for Victim 1, to include recommending subcontractors, approving their work and reviewing and authorizing their payment.

17. Beginning in approximately September 2015, **KAUSHAL** recommended the CC-1 Companies to be subcontractors on Victim 1 construction projects for which **KAUSHAL** was Project Manager.

18. The CC-1 Companies would submit payment requests to Victim 1, describing the sub-contracting work they represented was performed on Victim 1's construction projects. **KAUSHAL** prepared these payment requests for CC-1 and would then email them to CC-1. CC-1, or CC-1's wife, would sign the payment requests on behalf of the CC-1 Companies, have them notarized, and email them back to **KAUSHAL** in order to request payment from Victim 1.

19. For example, an email dated October 8, 2015 at 12:02PM from **KAUSHAL**, using email account kaushalkrakesh@live.com, to CC-1, with the Subject line "Invoice 2", reads "Sign and return" with the signature line "Rakesh Kaushal" followed by a phone number. The email contains an attachment titled "Application and Certificate for Payment" addressed To: Victim 1 and From: EDI. This document lists a "Current Payment Due" amount of \$60,000.00 and the Contractor certification signature line is blank as is the Notary Public signature.

20. I have reviewed a copy of an "Application and Certificate for Payment", addressed To: Victim 1 and From: EDI, dated October 9, 2015 that is signed by CC-1, and notarized. This document lists a "Current Payment Due" amount of \$60,000.00.

21. I have reviewed a copy of a check dated October 22, 2015 from Victim 1 to EDI for \$60,000. I have also reviewed a copy of a check dated October 28, 2015 from Superior to

KAUSHAL for \$26,900.00, which I believe represents a kick-back payment from CC-1 to **KAUSHAL**.

22. As another example, an email dated December 10, 2015 at 7:51AM from **KAUSHAL**, using kaushalkrakesh@live.com, to CC-1, with the Subject line "Approved Invoice 4", reads "Please execute this". The email contains an attachment titled "Application and Certificate for Payment", dated November 20, 2015, and is addressed To: Victim 1 and From: EDI. This document lists a "Current Payment Due" amount of \$156,500.00 and the Contractor certification signature line is blank as is the Notary Public signature.

23. An email dated December 10, 2015 at 2:17PM from CC-1 to **KAUSHAL**'s work email account (at Victim 1's email domain) reads "Rakesh, Attached is our Pay Application No.4 for your review and processing." Attached to this email is a document titled "Application and Certificate for Payment", dated November 20, 2015. The document lists a "Current Payment Due" amount of \$156,500.00; however, this document contains CC-1's signature under the "Contractor Certification" section and contains a signature under Notary Public.

24. I have reviewed a copy of a check, dated December 17, 2015, from Victim 1 to EDI for \$156,500.00. I have also reviewed a copy of a check dated December 21, 2015 from Superior to **KAUSHAL** for \$72,500.00, which I believe represents a kick-back payment from CC-1 to **KAUSHAL**.

25. I have reviewed the transcript from sworn testimony of CC-1 conducted on August 15, 2018.¹ During this testimony, CC-1 stated that **KAUSHAL** input the amounts on the requests for payments and CC-1 affirmed that he (CC-1) did not check the accuracy of these

¹ The references to sworn testimony in this affidavit were taken as part of a case between Victim 1 and **KAUSHAL** and CC-1, Civil Action No. 432032V in the Circuit Court of Maryland for Montgomery County.

requests for payments and “took his (KAUSHAL’s) word for it” regarding the accuracy of these amounts.

26. CC-1 also testified that the amount of overpayments, according to his figures, from Victim 1 to the CC-1 Companies was \$1.1 million.

27. In response to questioning regarding the payments made from the CC-1 Companies directly back to KAUSHAL, CC-1 testified that KAUSHAL asked for this money because KAUSHAL told CC-1 that KAUSHAL had an understanding that he was saving with Individual B to buy Victim 1 from Individual A. CC-1 stated that this conversation with KAUSHAL was in approximately August 2015.

28. I have reviewed a signed affidavit of Individual B, dated August 2, 2018. In this affidavit, Individual B states that he never spoke to KAUSHAL about a sale of Victim 1 to anyone. Individual B stated that he had no knowledge that the CC-1 Companies were providing kick-back payments to KAUSHAL until Victim 1 uncovered the fraud in late December 2016 and early January 2017. Individual B also stated that when he signed off on a payment request on behalf of Victim 1 he did so based on his belief that the CC-1 Companies had been truthful in their certifications, backed by notarized signatures of CC-1 or CC-1’s wife as corporate officers, that the work had been completed and the payments sought were due, and KAUSHAL’s assurances that all was in order and the payments were due.

29. Based on my review of emails, I believe KAUSHAL and CC-1 also made attempts to conceal the fraud when it was discovered by Victim 1 in December 2016. For example, an email dated December 28, 2016 at 7:55AM from KAUSHAL’s work email account (at Victim 1’s email domain), to CC-1 states “Good Morning [CC-1]: I have been informed by our accounting department that mistakenly we have overpaid your company for the MPO

Skywalk Project. Can you please verify with your accounting and respond by COB today..."

Copied on this email from KAUSHAL (using his Victim 1 email address) to CC-1 are Victim 1 employees Individual B and Individual C.

30. An email dated December 28, 2016 at 8:14AM from KAUSHAL's kaushalkrakesh@live.com email account to CC-1 reads "Good Morning Mr. Kaushal: In response to your email of this morning, please allow me to review our records with my accountant. My accountant is off this week, however, I should be able to get you an answer sooner..."

31. An email dated December 28, 2016 at 8:24AM, 10 minutes after the email above in paragraph 30, from CC-1 to KAUSHAL (at KAUSHAL's Victim 1 email account), Individual B, and Individual C states, "Good Morning Mr. Kaushal: In response to your email of this morning, please allow me to review our records with my accountant. My accountant is off this week. However, I should be able to get you an answer sooner..."

32. Based on the emails above in paragraphs 29 to 31, I believe that, upon the fraud being discovered by Victim 1, KAUSHAL and CC-1 worked together to draft CC-1's email response to Victim 1 prior to CC-1 sending the email to Victim 1.

33. Additionally, when CC-1 was questioned during sworn testimony on August 15, 2018, about the email referenced in Paragraph 31, above, CC-1 stated that he did not have an accountant and that his accountant was basically himself.

34. From approximately September 2015 to December 2016, CC-1 submitted approximately 36 payment requests, totaling over \$3.2 million, to Victim 1 related to work the CC-1 Companies represented they performed on Victim 1 construction projects. The payment requests were submitted to KAUSHAL who, as Victim 1's Project Manager or Project

Executive, represented to Victim 1 that the related work had been done, which in turn caused Victim 1 to pay the CC-1 Companies.

35. From approximately September 2015 to December 2016, Victim 1 paid the CC-1 Companies over \$3.2 million as a result of the payment requests. Upon receipt of these payments from Victim 1, CC-1 issued approximately 34 kick-back payments, totaling over \$1.7 million, directly to **KAUSHAL** personally. **KAUSHAL** deposited checks from the CC-1 Companies for these kick-back payments into his personal bank accounts, causing the transmission of information by interstate wires for purposes of processing these check payments.

36. On or about January 3, 2017, after discovering the fraud scheme, Victim 1 was able to successfully reverse or void payments totaling approximately \$741,525 to the CC-1 Companies.

37. I have reviewed three checks, all dated January 4, 2017, from **KAUSHAL** to EDI totaling \$370,700.06. In his sworn testimony, CC-1 stated that **KAUSHAL** paid him this money because CC-1 told **KAUSHAL** his bank accounts were overdrawn. I believe that the three checks totaling \$370,700.06, approximately one-half of the \$741,525, represents **KAUSHAL** refunding CC-1 money **KAUSHAL** had previously received in the form of kick-back payments from CC-1.

38. Bank records reflect that in January 2017, after the fraud was discovered by Victim 1, **KAUSHAL** wired \$650,000 from his Citibank account to a Bank of India account in India, with **KAUSHAL** listed as the beneficiary.

39. An email dated July 13, 2018, from **KAUSHAL** to CC-1 begins "DEFENDANT'S RESPOSES [sic] TO ALL OF THE PLAINTIFF'S FILING". Within the body of this email **KAUSHAL** writes, "...I was instructed by [Individual B] to ask [CC-1] to

submit overbilling invoices that would be paid promptly. I told him that I will not be part of this scheme. [Individual B] told me that since this is from [Individual A] and that he will be approving payments and contracts and I would only be assigning the project numbers. CC-1 told me that he also wants some percentage from these overbillings, which I agreed...". Later in the same email, **KAUSHAL** writes, "I was told to hold the monies in an escrow account. After monies reached approximately \$650,000, I told [Individual B] that if we transfer the monies to an Indian bank, we can get approximately 7% interest. I was told to go ahead. I opened an account with Bank of India as NRI account."

40. I believe that the email described in paragraph 39, above, was written by **KAUSHAL** to CC-1 to outline their defense in the ongoing civil litigation with Victim 1.

41. In March 2019, I participated in an interview of Individual A, who stated that she never told **KAUSHAL** to have the CC-1 Companies overbill Victim 1 or directed **KAUSHAL** to hold money on behalf of Victim 1. Individual A stated she never directed Individual B to direct **KAUSHAL** to have the CC-1 Companies overbill Victim 1 or to hold money on behalf of Victim 1. Individual A further stated that, prior to Victim 1's discovery of the scheme in December 2016, Individual A was unaware of any payments from the CC-1 Companies to **KAUSHAL** and that this information would have been important to Individual A in making payments to the CC-1 Companies.

42. In April 2019, I participated in an interview of Individual B who stated he never discussed an overbilling scheme with **KAUSHAL** nor did he ever discuss **KAUSHAL** holding Victim 1's money in a Bank of India bank account. Individual B also stated that, prior to Victim 1's discovery of the scheme in December 2016, Individual B was unaware of any payments from

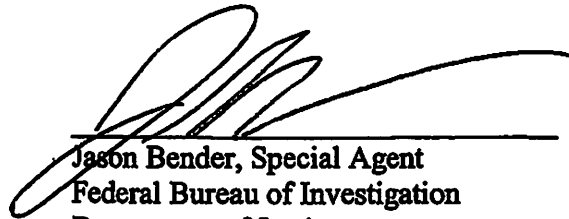
19-1409TJS

the CC-1 Companies to **KAUSHAL** and that this information would have been important to Individual B in connection with payment requests from the CC-1 Companies.

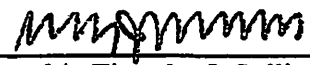
Conclusion

43. Based on the facts set forth herein, I respectfully submit that there is probable cause to believe that between in or about August 2015 and January 2017, **KAUSHAL** committed conspiracy to wire fraud in violation of 18 U.S.C. § 1349. Therefore, I request the issuance of a criminal complaint and an arrest warrant.

44. Your affiant has signed this document under oath as to all assertions and allegations contained herein and states that its contents are true and correct to the best of his knowledge.


Jason Bender, Special Agent
Federal Bureau of Investigation
Department of Justice

Subscribed and sworn to me on this 17th day of April, 2019.


The Honorable Timothy J. Sullivan
United States Magistrate Judge